

SENATE BILL REPORT

SB 5140

As of January 29, 2009

Title: An act relating to language access services in health care.

Brief Description: Requiring language access services for persons with limited English proficiency in health care and insurance matters.

Sponsors: Senators Shin, Kastama, McAuliffe, Jacobsen, Pridemore, Keiser, Hatfield, Kohl-Welles and Kline.

Brief History:

Committee Activity: Health & Long-Term Care: 1/28/09.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Staff: Mich'l Needham (786-7442)

Background: Estimates from the U.S. Census Bureau's 2007 American Community Survey indicates approximately 4 percent of Washington residents (234,362) aged five or more spoke English either "not at all" or "not well." Title VI of the Civil Rights Act of 1964, and subsequent executive orders require federally-conducted and federally-funded programs ensure persons with limited English proficiency have meaningful access to services. The medical assistance programs provided through the Washington State Department of Social and Health Services (DSHS) reimburse health care providers for interpreter services for their enrollees. Other types of insurance typically do not reimburse for interpreter services.

Summary of Bill: Beginning January 1, 2011, regulated insurance carriers must provide interpretation services or reimburse providers for interpretation services offered to enrollees with limited English proficiency. The Basic Health plan must also provide interpretation services when funding is appropriated for implementation. The interpretation services must be provided to enrollees with no additional premium charges, copayments, deductible, or other cost sharing. Interpretation services means the interpretation provided for patients and their guardians or caregivers with limited English proficiency to enable them to have accurate and adequate communications with clinical health care providers and with contract representatives or administrators responsible for billing and claims services. Interpretation services must be provided by interpreters who are certified or authorized.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A working group on language access in health care is established to develop recommendations for standards for interpreter certification and authorization. The working group includes the Department of Health, the DSHS, the Office of the Insurance Commissioner (OIC), the Health Care Authority, and the Department of Labor and Industries. In addition, the Governor must appoint two health care interpreters, and representatives for hospitals, community clinics, community health centers, a physician, a pharmacist, two consumer of interpretation services, and two consumer advocates. The working group must submit recommendations by January 1, 2010. The Health Care Authority must use the recommendations of the working group and adopt rules governing the certification and authorization of interpreters before July 31, 2010.

The OIC must complete a study of language issues that affect consumers who purchase health insurance by January 1, 2010. The study must include an analysis of barriers that language access problems pose, whether insurers are in compliance with statutory requirements to provide information to enrollees, the necessity and feasibility of the OIC providing interpretation services for health insurance, consumer advice, and dispute resolution assistance.

Appropriation: None.

Fiscal Note: Requested on January 22, 2009.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Sections 4-6 take effect January 1, 2011.

Section 3 takes effect when funds are appropriated for implementation.

Staff Summary of Public Testimony: PRO: Access to medical care with assistance for non-English speaking families is critical to receiving quality medical care. Although federal law requires providers to ensure patients have access to interpreters, many people are falling through the cracks and do not have appropriate access. Providers are eating the cost out of overhead, but this hits some clinics and hospitals, like Harborview, particularly hard. People should have access to professional medical interpreters. Patients should not have to rely on their children and other family members to interpret technical or sensitive medical information. Courts ensure that interpreters are available, including industrial appeals courts, but patients often were not provided interpreters to help explain the initial medical injury.

The payment approach is working for Medicaid, and it should work for other sectors as well. Physicians currently experience a financial loss for every translation service they need to provide since the service costs more than the physician is being paid for the office visit. The private sector insurance carriers have not stepped up and followed Medicaid's example. If there was coverage, there would be more access to translation and interpretation service, and more services would stay in the field.

CON: This is an operational challenge. There are significant costs, and a lack of clarity on how many languages and dialects need to be covered. California passed a similar law, and it has taken five years and millions of dollars to implement. If it is decided that is an

appropriate public policy, the state programs should be included in the coherent policy approach.

Persons Testifying: PRO: Senator Shin, prime sponsor; Karen Horn, Milena Calderari Waldron, Washington Interpreters and Translators Society; Bev Spears, Amal Aldetralmen, Mone Garcia, Washington Community Action Network; Laura Widenberg, National Organization of Translators and Interpreters; Susie Tracey, Washington State Medical Association; Cynthia Roat, National Language Translation Service; Janet Varon, Northwest Health Law Advocates.

CON: Steve Gano, Premera; Carrie Tellefsen, Regence; Mel Sorensen, America's Health Insurance Plans.